

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

SALLY JOHNSON,

Charging Party,

-v-

DEPARTMENT OF PUBLIC HEALTH AND
HUMAN SERVICES,

Respondent.

Case # 0061011878

ORDER

Sally Johnson (Johnson) filed a complaint with the Department of Labor and Industry (Department) alleging that the Department of Public Health and Human Services (DPHHS) discriminated against her based on a disability. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Johnson's allegations of unlawful discrimination. The Department issued a Notice of Dismissal in regard to DPHHS. Johnson filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on December 15, 2006.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Mont. Code Ann. § 49-2-509(4)(2005); Admin. R. Mont. 24.9.1714(3)*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint is not an abuse of discretion.

A party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Admin. R. Mont. 24.9.1714(7); See also Mont. Code Ann. § 2-4-702; § 49-2-509(4)*.

Alternatively, if a charging party chooses to commence a civil action, charging party has 90 days after the receipt of this order to petition a district court, in the district

where the alleged violation occurred, for the appropriate relief. *Mont. Code Ann. § 49-2-509(5) (2005); Admin. R. Mont. 24.9.1714(5)*. If a charging party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

IT IS HEREBY ORDERED, that Sally Johnson's objection is **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against DPHHS.

DATED this ____ day of December, 2006.

Chair Ryan Rusche
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this _____ day of _____, _____.

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Montana Human Rights Bureau